

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ALL STATES CONSTRUCTION, INC., ALL
STATES EMULSIONS LLC, PECKHAM
ASPHALT RESALE CORP. and PECKHAM
INDUSTRIES, INC.,

Plaintiffs,

v.

EDWARD HOUSE, KIMBERLY WILSON and
BEN SCARCELLA,

Defendants.

Hon. Judge Glenn T. Suddaby

Civ. No.: 1:24-CV-1133 (GTS/DJS)

**[PROPOSED] ORDER GRANTING THE PARTIES' JOINT
STIPULATION OF PARTIAL DISMISSAL**

WHEREAS, Plaintiffs All States Construction, Inc. and All States Emulsions, LLC (collectively, “All States”), Plaintiffs Peckham Asphalt Resale Corp. and Peckham Industries, Inc. (collectively “Peckham”), and Defendants Edward House, Kimberly Wilson, and Benjamin Scarcella (collectively, “Defendants”) (Plaintiffs Peckham and All States and Defendants are collectively, the “Parties”) have submitted a Joint Stipulation of Partial Dismissal (“Joint Stipulation”) of certain claims against Defendants Edward House and Kimberly Wilson, and all claims against Defendant Benjamin Scarcella;

Based upon the Joint Stipulation dated January 9, 2025, and good cause appearing therefore, **IT IS HEREBY ORDERED** that:

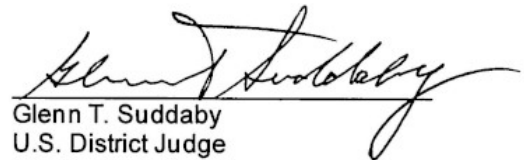
1. All counts (Counts I-VI) in the First Amended Complaint (Dkt. No. 15) are dismissed as against Defendant Benjamin Scarcella without prejudice;
2. Count V for unjust enrichment and Count VI for conversion in the First Amended Complaint (Dkt. No. 15) are dismissed as against all Defendants without prejudice;

3. Peckham's count for violation of the CFAA (Count IV) in the First Amended Complaint (Dkt. No. 15) is dismissed as against all Defendants without prejudice;

4. All States' count for violation of the CFAA (Count IV) in the First Amended Complaint (Dkt. No. 15) is dismissed as against Defendant Kimberly Wilson without prejudice;

5. Defendants will not file a renewed Motion to Dismiss as previously authorized by this Court's order on December 26, 2024 (Dkt. No. 18) and, instead, Defendants shall file an Answer to the First Amended Complaint on or before January 28, 2025

Dated: 1/14/2025


Glenn T. Suddaby
U.S. District Judge